

MINUTES OF REGULAR MEETING - VIDEO
OPEN SESSION
September 23, 2014
ILLINOIS GAMING BOARD
CHICAGO, ILLINOIS

NOTE: ITEMS IN **BOLDFACE PRINT** REFLECT OFFICIAL BOARD ACTIONS

On Tuesday, September 23, 2014 a Regular Meeting - Video of the Illinois Gaming Board ("Board") was held on the 5th floor at 160 N. LaSalle at the Michael J. Bilandic Building, Chicago, Illinois. The Open Session on Video Gaming started at approximately 10:35 A.M. Present were Chairman Aaron Jaffe, Lee Gould and Michael Holewinski.

APPROVAL OF MINUTES – Open Session

Member Gould **moved that the Board approve the open session minutes of its Regular Meeting of August 21, 2014.** Member Holewinski seconded the motion. The Board approved the motion unanimously by roll call vote.

ADMINISTRATOR'S REPORT –

Administrator Ostrowski stated that there are 4,517 live locations and 18,317 VGT's up and running.

PUBLIC COMMENTARY – Maribeth Vander Weele

Maribeth Vander Weele addressed the Board to thank them and express what a pleasure it was having a seat on the Board.

BOARD POLICY ITEM –

Legislative Liaison Caleb Melamed addressed the Board regarding the Rule change.

Sections 78 (a) (3) and (b) of the Video Gaming Act grant the Board rulemaking authority with respect to the Video Gaming Act ("Act"). During the September 24 open meeting of the Illinois Gaming Board, the Board's legal staff will submit a proposal for an interpretive rulemaking to clarify the meaning of Section 15 of the Act, as amended by Public Act 98-0031 (Senate Bill 1738), whose provisions became effective on June 24, 2013.

Public Act 98-0031 authorized the vendor of the Central Communications System (CCS) to be licensed as a manufacturer or distributor. This authorization has made possible the acquisition by the current CCS vendor, Scientific Games Corp., of two previously licensed manufacturers and distributors—WMS Gaming Inc. and Bally Gaming Inc.

To ensure that manufacturers and distributors owned by the CCS vendor did not gain an unfair competitive advantage, Public Act 98-0031 inserted the following new language into Section 15 of the Video Gaming Act:

The Board shall not permit the development of information or the use by any licensee of gaming device or individual game performance data. Nothing in this Act shall inhibit or prohibit the Board from the use of gaming device or individual game performance data in its regulatory duties. The Board shall adopt rules to ensure that all licensees are treated and all licensees act in a non-discriminatory manner and develop processes and penalties to enforce those rules.

A question arising under this statutory language is whether the prohibition against the sharing of gaming device and game performance data applies to *internal data* acquired by a licensee. Although such an interpretation arguably conforms with the literal statutory language, prohibiting a licensee from developing or using information that it acquires about its own operations appears a far-fetched, indeed absurd, result. The statutory language quoted above is manifestly intended to prevent manufacturers and distributors owned by the CCS vendor to obtain proprietary data developed by their *competitors*, and thereby acquire an unfair advantage in the marketplace.

As stated by the Illinois Supreme Court in the recent case of *People v. Hunter*, 986 N.E. 2d 1185, 1189, 369 Ill. Dec. 549, 553 (2013):

The primary objective in construing a statute is to ascertain and give effect to the intent of the legislature. The most reliable indicator of legislative intent is the language of the statute given its plain and ordinary meaning. A court must view the statute as a whole, construing words and phrases in light of other relevant statutory provisions and not in isolation. Each word, clause, and sentence of a statute must be given a reasonable meaning, if possible, and should not be rendered superfluous. *The court may consider the reason for the law, the problems sought to be remedied, the purposes to be achieved, and the consequences of construing the statute one way or another. Also, a court presumes that the legislature did not intend to create absurd, inconvenient or unjust results.* [Italics added.]

Similarly, the First District Appellate Court in *Austin Bank of Chicago v. Barrington Hills*, 396 Ill. App. 3d 1, 8-9 (1st Dist 2009) cautioned that:

...[R]eviewing courts should guard against a statutory interpretation that conflicts with the spirit of a statute. Where “a literal interpretation of a particular clause would defeat the [legislature’s] obvious intent, it does not control.” [Citations.]

Illinois courts have recognized that an agency's construction of a statute which it administers is entitled to substantial weight and deference, "...[stemming] from the fact that agencies make informed judgments on the issues based upon their experience and expertise and are also an informed source for ascertaining the legislature's intent." *Metropolitan Water Reclamation District of Greater Chicago v. Illinois Department of Revenue*, 313 Ill. App. 3d 469, 474-75 (1st Dist. 2000).

Based on its experience and expertise in regulating the CCS vendor and licensed manufacturers and distributors, as well as its careful reading of the statutory language, the Board's legal staff concludes that the provisions of P.A. 98-0031 were never intended to restrict the use or analysis by licensees of their internal data. Accordingly, staff proposes a clarifying rulemaking to make this point explicit and eliminate any uncertainties in statutory interpretation.

- **Proposed Addition to Video Gaming Rules: Section 1610**
Member Holewinski moved that the Board add a new section 1610 to the Board's rules on video gaming regarding Use of Gaming Device or Individual Game Performance Data by authorizing staff to submit a proposal for First Notice Filing with the Secretary of State upon final review and approval by the Administrator. Member Gould seconded the motion. The Board approved the motion unanimously by roll call vote.

MANUFACTURER, DISTRIBUTOR & SUPPLIER LICENSEE ITEMS:

- **VGT Manufacturing, Inc. – Manufacturer & Distributor Licenses**
Member Gould moved that the Board renew the Manufacturer & Distributor Licenses of VGT Manufacturing, Inc., effective September 23, 2014 for a period of one year, expiring in September 2015. Member Holewinski seconded the motion. The Board approved the motion unanimously by roll call vote.
- **PDS Gaming – Illinois, LLC – Distributor License**
Member Holewinski moved that the Board renew the Distributor License of PDS Gaming – Illinois, LLC effective September 23, 2014 for a period of one year, expiring in September 2015. Member Gould seconded the motion. The Board approved the motion unanimously by roll call vote.

TERMINAL OPERATOR LICENSEE ITEMS:

- **Bell Gaming LLC**
Member Gould moved that the Board renew the Terminal Operator license of Bell Gaming LLC effective September 23, 2014 for a period of one year, expiring in September 2015. Member Holewinski seconded the motion. The Board approved the motion unanimously by roll call vote.
- **GEM - SPV, LLC**
Member Holewinski moved that the Board renew the Terminal Operator license of GEM - SPV, LLC effective September 23, 2014 for a period of one year, expiring in

September 2015. Member Gould seconded the motion. The Board approved the motion unanimously by roll call vote.

- Midwest Amusement & Gaming, Inc.
Member Gould moved that the Board renew the Terminal Operator license of Midwest Amusement & Gaming, Inc. effective September 23, 2014 for a period of one year, expiring in September 2015. Member Holewinski seconded the motion. The Board approved the motion unanimously by roll call vote.
- Illinois Gold Rush, Inc.
Member Holewinski moved that the Board renew the Terminal Operator license of Illinois Gold Rush, Inc. retroactive to January 15, 2014 for a period of one year, expiring in January 2015. Member Gould seconded the motion. The Board approved the motion unanimously by roll call vote.

TECHNICIAN & TERMINAL HANDLER LICENSEE ITEMS:

- Member Gould moved that the Board approve 46 Terminal Handler Licenses. Member Holewinski seconded the motion. The Board approved the motion unanimously by roll call vote.

VIDEO GAMING LOCATION LICENSEE ITEMS:

- Member Holewinski moved that the Board approve 93 Video Gaming Location Licenses and issue a notice of denial to the following applicants:
 - Airline Petroleum Inc.
 - VO&J Investments, LLC
 - Chana Tap Inc.
 - Justin R. Shouse
 - Keith Bennett & Connie Bennett
 - Leticia Powers
 - Tap House Grill Westmont, Inc.
 - Don Juan Gillam

Member Gould seconded the motion. The Board approved the motion unanimously by roll call vote.

- Mt. Carmel Lodge No. 1155, Loyal Order of Moose, Inc.
Member Gould moved that the Board rescind the Board's August 21, 2014 denial of the Mt. Carmel Lodge No. 1155 and grant it a license effective September 23, 2014 for a period of one year, expiring in September 2015. Member Holewinski seconded the motion. The Board approved the motion unanimously by roll call vote.

ADMINISTRATIVE REQUESTS FOR HEARING & REQUESTS TO REAPPLY:

- Requests for Hearing
Member Holewinski moved that the Board deny the request for hearing from Rita Jean Shaw as she failed to establish a prima facie case, and deny the request for

hearing from Mt. Carmel Lodge No. 1155 as moot. Member Gould seconded the motion. The Board approved the motion unanimously by roll call vote.

- Requests to Reapply
Member Gould moved that the Board approve the requests to reapply from Giovic's, Incorporated, Harvey A. Pulliam Post 7537 and AAP Services, Inc. Member Holewinski seconded the motion. The Board approved the motion unanimously by roll call vote.

DISCIPLINARY ACTIONS:

- John Mudaro – Terminal Handler
Member Holewinski moved that the Board issue a Disciplinary Complaint against John Mudaro for his failure to disclose all material changes in information to the Board and that the Board revoke his license, said action to take effect 21 days from the date of service of the Complaint, unless he files an Answer to the Complaint or pays a \$250 fine within that time period. Member Gould seconded the motion. The Board approved the motion unanimously by roll call vote.
- Terry Edwards – Terminal Handler
Member Gould moved that the Board issue a Disciplinary Complaint against Terry Edwards for his failure to disclose all material changes in information to the Board and that the Board revoke his license, said action to take effect 21 days from the date of service of the Complaint, unless he files an Answer to the Complaint or pays a \$500 fine within that time period. Member Holewinski seconded the motion. The Board approved the motion unanimously by roll call vote.
- Dream's Pizzeria, LLC
Member Holewinski moved that the Board issue a Disciplinary Complaint to revoke the Video Gaming Establishment License held by Dream's Pizzeria, LLC due to its conduct involving illegal gambling, said action to take effect 21 days from the date of service of the Complaint unless a \$5,000.00 is paid or an Answer is properly filed within that time period. Member Gould seconded the motion. The Board approved the motion unanimously by roll call vote.
- Four Siblings, LLC
Member Gould moved that the Board issue a Disciplinary Complaint to revoke the Video Gaming Establishment License held by Four Siblings, LLC due to its failure to disclose an ownership change to the Board, said action to take effect 21 days from the date of service of the Complaint unless a \$1,500.00 is paid or an Answer is properly filed within that time period. Member Holewinski seconded the motion. The Board approved the motion unanimously by roll call vote.
- Perigen's Tavern, Inc.
Member Holewinski moved that the Board issue a Disciplinary Complaint to revoke the Video Gaming Establishment License held by Perigen's Tavern, Inc. due to its

failure to register in accordance with the Gambling Device Act of 1962, said action to take effect 21 days from the date of service of the Complaint unless a \$1,500.00 is paid or an Answer is properly filed within that time period. Member Gould seconded the motion. The Board approved the motion unanimously by roll call vote.

- Illinois Gaming Investors LLC, Ryan Mortland, David Zerrusen & Greg Sprinkles
Member Gould moved that based on staff's investigation and in lieu of the Board taking any regulatory action, to accept the proposed agreement pursuant to which Illinois Gaming Investors LLC has agreed to pay appropriate administrative costs incurred by the Board; delegate to the Administrator the authority to execute such agreement; and authorize legal counsel to present the executed agreement to the Administrative Law Judge and move for dismissal of the complaints issued against Illinois Gaming Investors LLC, Greg Sprinkles, David Zerrusen, and Ryan Mortland, in accordance with the terms of the Agreement. Member Holewinski seconded the motion. The Board approved the motion unanimously by roll call vote.

At 10:55 A.M. Member Holewinski motioned to adjourn and Member Gould seconded the motion. All Members voted in favor of adjournment.

Respectfully submitted,

Mary C. Boruta
Secretary to the Administrator